

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
DANVILLE DIVISION

CLERK'S OFFICE U.S. DIST. COURT
AT DANVILLE, VA
FILED

JUL 19 2016

JULIA C. DUDLEY, CLERK
BY: *H. McDonald*
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UNITED STATES OF AMERICA

Case No. 4:00-cr-70114-1

v.

MEMORANDUM OPINION

ARTHUR OUTLAW

By: Hon. Jackson L. Kiser
Senior United States District Judge

Arthur Outlaw, a federal inmate proceeding pro se, filed a "motion to review sentence under Title 18 U.S.C. § 3742(a)(2)," asking that he be resentenced.¹ Consequently, I find that the request must be construed as a motion to vacate, set aside, or correct sentence pursuant to 28 U.S.C. § 2255. Court records indicate that the court already dismissed a prior § 2255 motion in Outlaw v. United States, No. 7:03-cv-00719, slip op. at 1 (W.D. Va. Dec. 30, 2004), by which Petitioner could have raised the instant challenge. Thus, the construed § 2255 motion is a second or subsequent motion under 28 U.S.C. § 2255(h). Cf. United States v. Hairston, 754 F.3d 258, 262 (4th Cir. 2014).

The court may consider a second or successive § 2255 motion only upon specific certification from the United States Court of Appeals for the Fourth Circuit that a claim in the motion meets certain criteria. See 28 U.S.C. § 2255(h). As Petitioner has not submitted any evidence of having obtained certification from the Court of Appeals to file a second or successive § 2255 motion, the court dismisses the § 2255 motion without prejudice as successive. Based upon the court's finding that Petitioner has not made the requisite substantial showing of denial of a constitutional right as required by 28 U.S.C. § 2253(c), a certificate of appealability is denied.

ENTER: This 19th day of July, 2016.

Jackson L. Kiser
Senior United States District Judge

¹ Despite invoking 18 U.S.C. § 3742, Petitioner asks this court to rule on his request.